

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7613 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed
to see the judgements? No

2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy
of the judgement? No

4. Whether this case involves a substantial question
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?
No

DAYALBHAI GANDABHAI

Versus

COMPETENT AUTHORITY & ADDL COLLECTOR

Appearance:

MR MC BHATT for Petitioner

MR. T.H. SOMPURA, LD.GOV'T. PLEADER for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 13/01/97

ORAL JUDGEMENT

Rule. Mr.Sompura, Ld. Govt. Counsel waives
service of the rule.

Upon hearing learned counsel for the petitioner
Mr. M.C.Bhatt and learned Govt. Counsel Mr. T.H.
Sompura, it appears that, the present petition requires a

partial recognition, and the matter requires to be remitted to Respondent No.1, the Competent Authority & Addl. Collector, Surat, for the decision in the matter according to law and on merits.

The contention coming from learned counsel for the petitioner Mr. Bhatt is that, the land involved is a piece of land bearing Survey No. 599 situated at Village Vesu, under the Choryasi Taluka of the Surat District, and it admeasures 22960 sq. meters. Learned counsel for the petitioner urges that, atleast from year 1975-76 upto year 1991-92 the land admittedly is being used for the agricultural purposes. In support of this contention, learned counsel places reliance upon the copy of Village Form No. 7 & 12 available at Annexure-D. A reference to this record of Revenue would to go show that, Mr. Bhatt is perfectly justified in raising a factual contention in this respect. This annexure goes to show that, right from year 1975-76 upto 1991-92 the land was being cultivated and during all these period it was an agricultural land. Paddy, Juwar and other things were being cultivated in the land.

It is therefore clear that the date on which the Urban Land (Ceiling & Regulation) Act, 1976, came into being, the land was an agricultural land and that, it was being cultivated as the agricultural land. In the Revenue Record also the land has been shown as the agricultural land. More over, as being submitted by learned counsel for the petitioner, the Development Plan came into existence on 31-1-1986. Therefore, it is abundantly clear that the date on which the Development Plan came in to being, the land was an agricultural land and was being cultivated as the agricultural land. On this date also the land has been shown as the agricultural land in the Revenue Record. At no point of time the land has been shown as a land falling under any other zone before the said date, that is 31-1-1986. These were the questions of facts which were required to be investigated and answered by the Competent Authority. It appears that, this has not been done. The proper course therefore would be to remand the matter to the Competent Authority to decide the above said questions. The petition therefore stands partly allowed and the orders under challenge are hereby quashed and set aside, and the matter is hereby remanded to the Competent Authority for decision according to law. It would be for the Competent Authority to decide as to whether the land in question was an agricultural land and used to run as an agricultural land in the Revenue Record and was being actually used as the agricultural land on the date on which the ULC Act, 1976 came into being. The

Competent Authority shall also have to inquire as to whether the land was put in any other zone before 31-1-1986. The Competent Authority shall also inquire in to the question as to whether the land in question was in a particular master plan. The Competent Authority shall decide the above said questions after affording a reasonable opportunity of being heard to the parties.

It should be clarified, upon the request coming from learned counsel for the petitioner that, the other points both legal and factual, have not been dealt with by him and that, those points shall be open for the petitioner to be contended, if the above said aspects go against him in the remanded proceedings. Rule is made absolute to the above said extent only. Notice shall stand discharged.
